

City of Bellevue Development Services Department Land Use Staff Report

Proposal Name: Baches Deck

Proposal Address: 3721 120th Ave SE

Proposal Description: Critical Areas Land Use Permit to modify a steep slope

buffer to construct a 909 square-foot deck and 240 square-foot patio. The proposal includes 650 square feet of buffer mitigation with native steep slope buffer planting and impervious surface removal located within the buffer. The proposal is supported by a Critical Areas Report.

File Number: 20-101243-LO

Applicant: Craig Krueger, Community Land Planning

Decisions Included: Process II

Planner: David Wong, Land Use Planner

State Environmental Policy Act

Threshold Determination: Exempt

Department Decision: Approval with Conditions

Heidi Bedwell, Planning Manager

Elizabeth Stead, Land Use Director Development Services Department

Application Date:

Notice of Application Publication Date:

Decision Publication Date:

January 14, 2020
February 20, 2020
July 9, 2020

Appeal Deadline: July 23, 2020

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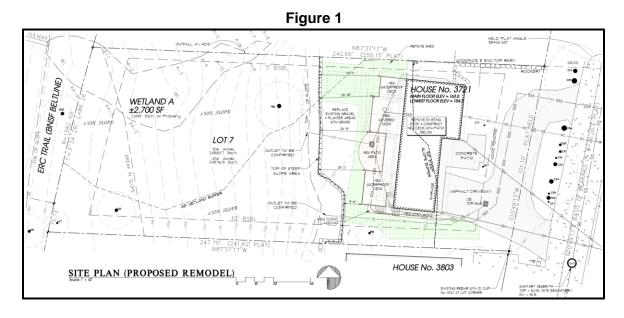
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Attachments

- 1. Site Plan
- Critical Areas Report Altmann & Oliver (in file)
 Geotechnical Report (Revised 02/28/2020) Terra Associates, Inc. (in file)

I. Request & Review Process

The applicant has requested a Critical Areas Land Use Permit approval to construct a 909 square-foot deck and 240 square-foot patio on the west side of the existing single-family residence. Proposed activities would be located within the code required 50-foot steep slope critical area buffer. The proposed minimum buffer is approximately 22 feet. The proposal includes approximately 650 square feet of buffer mitigation planting and removal of impervious surface within the buffer to improve degraded buffer conditions. See Figure 1 for proposed site conditions.



Proposals to permanently modify a steep slope buffer require the approval of a Critical Areas Land Use Permit (CALUP) with Critical Areas Report (CAR) and are subject to the requirements of LUC 20.25H and 20.30P, including but not limited to those sections governing steep slopes, Critical Areas Reports (CAR), and mitigation. No modification of the wetland or wetland buffer is requested in this proposal.

II. Site Context & Description

A. Site Context

The site improvements include an existing single-family residence, two (2) driveways, and a rear deck. The site has street frontage to the east along 120th Avenue SE but driveway access is located on the west side of the property through a private street. A steep slope critical area with approximately 55 feet of elevation is located in the western portion of the property and is continues offsite on the adjacent parcels to the north and the south. A Category IV wetland of approximately 2,700 square feet is located in the northwest corner of the property and continues offsite to the north and west. The existing single-family home and improvements are located within the steep slope buffer. Large portions of the steep slope, wetland, and associated buffers contain degraded critical areas conditions covered by permanent improvements associated with the single-family

residence. These include non-native vegetation, ornamental shrubs, and invasive species. The site soils have been identified as Alderwood gravelly sandy loam (AgD) according mapping provided by the Natural Resources Conservation Service (NRCS). See Figure 2 below for the current site conditions.

Figure 2



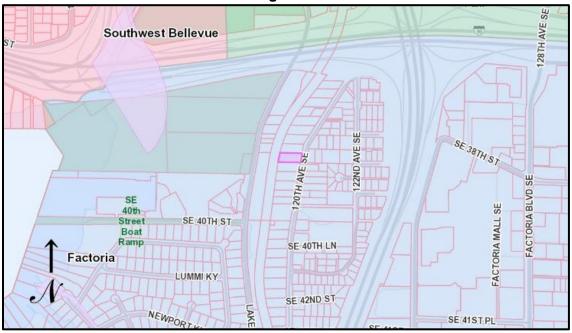
B. Zoning & Subarea

The property is zoned R-5 (Single-Family Residential) and is located within the Factoria subarea of the City's Comprehensive Plan. <u>See Figure 3 for zoning map and Figure 4 for subarea information</u>.

Figure 3



Figure 4



C. Land Use Context

The site has a Comprehensive Plan designation of SF-H, or Single-Family High Density. The site is adjacent to residential uses to the north, south, and east, and multifamily and rail corridor uses to the west. <u>See Figure 6 for Comprehensive Plan designation</u>.

Figure 5 32nd Park SF-L 0 MF-M GC SF-M OLB 0 P/SF-M SF-H 122ND AVE SE SE 38TH ST SF-M FACTORIA MALL SE 40th P/SF-MStreet SE 40TH ST Boat CB SE 40TH LN LUMMI KY SE 42ND ST LAKE WASHING NEWPORTKY SE 41ST PL SE 41STLN SE 42ND CT GLACIER KY SE 42ND ST

D. Critical Areas Functions and Values

i. Wetlands

Wetlands provide important functions and values for both the human and biological environment—these functions include flood control, water quality improvement, and nutrient production. These "functions and values" to both the environment and the citizens of Bellevue depend on their size and location within a basin, as well as their diversity and quality. While Bellevue's wetlands provide various beneficial functions, not all wetlands perform all functions, nor do they perform all functions equally well (Novitski et al., 1995). However, the combined effect of functional processes of wetlands within basins provides benefits to both natural and human environments. For example, wetlands provide significant stormwater control, even if they are degraded and comprise only a small percentage of area within a basin.

ii. Geologic Hazard Areas

Geologic hazards pose a threat to the health and safety of citizens when commercial, residential, or industrial development is inappropriately sited in areas of significant hazard. Some geologic hazards can be reduced or mitigated by engineering, design, or modified construction practices. When technology cannot reduce risks to acceptable levels, building in geologically hazardous areas is best avoided (WAC 365-190).

Steep slopes may serve several other functions and possess other values for the City and its residents. Several of Bellevue's remaining large blocks of forest are located in steep slope areas, providing habitat for a variety of wildlife species and important linkages between habitat areas in the City. These steep slope areas also act as conduits for groundwater, which drains from hillsides to provides a water source for the City's wetlands and stream systems. Vegetated steep slopes also provide a visual amenity in the City, providing a "green" backdrop for urbanized areas enhancing property values and buffering urban development.

III. Consistency with Land Use Code Requirements:

A. Zoning District Dimensional Requirements:

The site is located within the R-5 zoning district. Review of the proposal found that applicable dimensional requirements for side yard setbacks, lot coverage, impervious surface, and hardscape are in compliance with the standards and limitations of LUC 20.20.010. All zoning dimensional standards will be confirmed during review of the required building permit.

B. Consistency with Land Use Code Critical Areas Performance Standards:

- i. Steep Slope & Geologic Hazards Performance Standards 20.25H.125 In addition to generally applicable performance standards set forth in LUC 20.25H.055 and 20.25H.065, development within a landslide hazard or steep slope critical area or the critical area buffers of such hazards shall incorporate the following additional performance standards in design of the development, as applicable. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function.
 - 1. Structures and improvements shall minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography;

No changes to the natural contour of the steep slope or steep slope buffer are proposed. Deck and patio improvements will occur in areas currently improved with impervious surface and existing structures.

2. Structures and improvements shall be located to preserve the most critical portion of the site and its natural landforms and vegetation;

The proposed deck and patio have been located outside of the slope and within areas where permanent improvements currently exist. The proposal includes removal of some legally established permanent improvements (impervious surface, deck structure, and shed), as well as restoration of areas where impervious surface within steep slope buffer is removed.

3. The proposed development shall not result in greater risk or a need for increased buffers on neighboring properties;

Based on finding and recommendations made by the project Geotechnical Engineer, "...the proposed buffer modification will not increase the treat of the hazard to the adjacent properties over conditions that currently exist." (Attachment 3, pg.5). See Section X for conditions of approval related to geotechnical engineer recommendations.

- 4. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes where graded slopes would result in increased disturbance as compared to use of retaining wall; No new retaining walls or artificially graded slopes are proposed.
- 5. Development shall be designed to minimize impervious surfaces within the critical area and critical area buffer;

The deck the proposal will result in an overall reduction in impervious surface coverage within the buffer by locating the proposed deck and patio in areas of existing impervious surface, and through the removal of other impervious surface outside of the area needed for the patio.

- 6. Where change in grade outside the building footprint is necessary, the site retention system should be stepped and regrading should be designed to minimize topographic modification. On slopes in excess of 40 percent, grading for yard area may be disallowed where inconsistent with this criteria; No grading is proposed as part of this project.
- 7. Building foundation walls shall be utilized as retaining walls rather than rockeries or retaining structures built separately and away from the building wherever feasible. Freestanding retaining devices are only permitted when they cannot be designed as structural elements of the building foundation; No new rockeries or freestanding retaining walls are proposed.
- 8. On slopes in excess of 40 percent, use of pole-type construction which conforms to the existing topography is required where feasible. If pole-type construction is not technically feasible, the structure must be tiered to conform to the existing topography and to minimize topographic modification;

No development is proposed on or over slopes of 40 percent or greater.

 On slopes in excess of 40 percent, piled deck support structures are required where technically feasible for parking or garages over fill-based construction types; and

No new parking areas or garages are proposed.

- 10. Areas of new permanent disturbance and all areas of temporary disturbance shall be mitigated and/or restored pursuant to a mitigation and restoration plan meeting the requirements of LUC 20.25H.210. (Ord. 5680, 6-26-06, § 3) The proposal includes mitigation plans to provide 650 square feet of new, native slope buffer planting to off-set the proposed deck and patio within the steep slope buffer. The species and densities provided in the conceptual mitigation planting plan generally conform to the requirement of the City's Critical Areas Handbook, and the applicant will be required to provide a final mitigation planting plan under the Building Permit application. Conformance with the City's Critical Areas Handbook will be determined at the time of Building Permit review. See Section X for mitigation conditions of approval.
- C. Consistency with Critical Areas Report LUC 20.25.230.

The applicant supplied a complete critical areas report prepared by Altmann Oliver Associates, LLC and Terra Associates, Inc., both qualified professionals (Attachment 2 & 3). The report met the minimum requirements in LUC 20.25H.250.

IV. Public Notice and Comment

Application Date: January 14, 2020
Public Notice (500 feet): February 20, 2020
Minimum Comment Period: March 5, 2020

The Notice of Application for this project was published in the City of Bellevue weekly permit bulletin on March 5, 2020. It was mailed to property owners within 500 feet of the project site. No comments have been received from the public as of the writing of this staff report.

V. Summary of Technical Reviews

Clearing and Grading:

The Clearing and Grading Division of the Development Services Department has reviewed the proposed development for compliance with Clearing and Grading codes and standards. The Clearing and Grading staff found no issues with the proposed development. Due to the proximity of the on-site steep slope and the proposed work area, clearing and grading work is restricted during the rainy season or October 1st through April 30th. Geotechnical inspection is required during construction of the proposed improvements. See Section X for rainy season restriction and geotechnical inspection conditions of approval.

Utilities:

City of Bellevue Utilities staff has reviewed the proposed development for compliance with City of Bellevue Utilities codes and standards. Utilities staff found no issues with the proposed development.

VI. State Environmental Policy Act (SEPA)

The proposal is exempt from SEPA review, per WAC 197-11-908 and BCC 22.02.032. Minor new construction within a steep slope buffer is exempt.

VII. Changes to Proposal as a Result of City Review

No significant changes were requested by City staff during the review of this proposal.

VIII. Decision Criteria

A. Critical Areas Report Decision Criteria-Proposals to Reduce Regulated Critical Area Buffer LUC 20.25H.255.

The Director may approve, or approve with modifications, a proposal to reduce the regulated critical area buffer on a site where the applicant demonstrates:

1. The proposal includes plans for restoration of degraded critical area or critical area buffer functions which demonstrate a net gain in overall critical area or critical area buffer functions:

Finding: The proposal includes a mitigation plan that includes native planting within the steep slope and buffer to the west of the existing retaining wall above the slope. The CAR (Attachment 2) identifies and documents the degraded conditions on-site, both in the area of where the proposed deck and patio are and where the proposed mitigation planting will occur. With the installation of native vegetation, net improvement is expected, primarily through the improvements to the current habitat conditions, stormwater quality, and slope and buffer stability. See Section X for mitigation plan conditions of approval.

2. The proposal includes plans for restoration of degraded critical area or critical area buffer functions which demonstrate a net gain in the most important critical area or critical area buffer functions to the ecosystem in which they exist;

Finding: Much of the slope buffer on-site is degraded due to the presence of permanent improvements (existing structure, driveway, lawn, etc.) and non-native vegetation. These areas have low levels of buffer functions identified and described in the CAR (Attachment 2). The mitigation planting plan was designed to improve degraded conditions immediately adjacent to the permanent improvements, existing and proposed, through increased biodiversity of native plant species. See Section X for mitigation conditions of approval.

3. The proposal includes a net gain in stormwater quality function by the critical area buffer or by elements of the development proposal outside of the reduced regulated critical area buffer;

Finding: The proposed native planting plan will result in improved stormwater functions of filtration and speed flow through the natural drainage path (slope and buffer). Overall stormwater quality is expected to be improved.

4. Adequate resources to ensure completion of any required restoration, mitigation and monitoring efforts;

Finding: A five-year maintenance and monitoring plan has been included in the proposal. In addition to maintenance and monitoring activities, an assurance device associated with the maintenance and monitoring will be required as part of the Building Permit. See Section X for maintenance and monitoring and surety conditions of approval.

5. The modifications and performance standards included in the proposal are not detrimental to the functions and values of critical area and critical area buffers off-site; and

Finding: The modifications and performance standards included in the proposal are not detrimental to off-site critical areas and buffers and are expected to lead to improved buffer function for on-site and off-site steep slope and wetland critical areas and buffers. As noted in the Critical Areas Report the existing low level of functions provided by this site would continue without the buffer reduction and mitigation planting plan. The slope and slope buffer functions will be enhanced with the proposed actions.

6. The resulting development is compatible with other uses and development in the same land use district. (Ord. 5680, 6-26-06, § 3)

Finding: The proposal does not change the underlying zoning or existing land use. The proposed addition, reconstructed deck, and walkway are all normal improvements associated with a single-family residence.

B. Critical Areas Land Use Permit Decision Criteria 20.30P

The Director may approve or approve with modifications an application for a critical areas land use permit if:

1. The proposal obtains all other permits required by the Land Use Code;

Finding: The applicant will be required to apply for a Building Permit after the approval of the Critical Areas Land Use Permit. See Section X for permit conditions of approval related to construction permit approval.

2. The proposal utilizes to the maximum extent possible the best available construction, design and development techniques which result in the least impact on the critical area and critical area buffer;

Finding: The proposal has been designed and located to minimize impacts to and improve critical area and buffer functions. The proposed deck and patio located within an area of existing development and within a buffer area of low buffer function due to existing degraded conditions caused by prior single-family development. Locating the development as proposed has the least impact on the steep slope, wetland, and their buffers. The design includes native mitigation planting of native species commonly found within steep slope, steep slope buffers, and those found in the near vicinity of the site.

The review of this permit is reliant upon the findings of qualified professionals submitted by the applicant as part of this proposal. The property owner will be required to execute a Hold Harmless Agreement releasing the City from liability for any improvements within the critical area buffer. See Section X for hold harmless agreement conditions of approval.

3. The proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable, and ;

Finding: As discussed in Section III.B of this report, the proposal incorporates the performance standards of Part 20.25H to the maximum extent applicable.

4. The proposal will be served by adequate public facilities including street, fire protection, and utilities; and;

Finding: The site is currently served by adequate public facilities and no additional need is anticipated with this proposal. No change in public facilities service is anticipated.

5. The proposal includes a mitigation or restoration plan consistent with the requirements of LUC Section 20.25H.210; and

Finding: The proposal includes a preliminary mitigation plan that provides native planting consistent with LUC 20.25H.210. The plan also contains a five-year maintenance and monitoring plan to ensure successful establishment of installed planting. See Section X for maintenance and monitoring and mitigation conditions of approval.

6. The proposal complies with other applicable requirements of this code.

Finding: As discussed in Section III and V of this report, the proposal complies with all other applicable requirements of the Land Use Code.

IX. Conclusion and Decision

After conducting the various administrative reviews associated with this proposal, including Land Use Code consistency, SEPA, City Code and Standard compliance reviews, the Director of the Development Services Department does hereby **approve with conditions** the proposal to construct a 909 square-foot deck and 240 square-foot patio at 3721 120th Ave SE as shown on the proposed plans (Attachment 1).

<u>Note-Expiration of Approval:</u> In accordance with LUC 20.30P.150 a Critical Areas Land Use Permit automatically expires and is void if the applicant fails to file for a Building Permit or other necessary development permits within one year of the effective date of the approval.

X. Conditions of Approval

The applicant shall comply with all applicable Bellevue City Codes and Ordinances including but not limited to:

Applicable Ordinances	Contact Person
Clearing and Grading Code - BCC 23.76	Savina Uzunow, 425-452-7860
Utilities Code - BCC 24	Jeremy Rosenlund, 425-452-4855
Land Use Code - BCC 20	David Wong, 425-452-4828

The following conditions are imposed under the Bellevue City Code or SEPA authority referenced:

1. Building Permit Required: Approval of this Critical Areas Land Use Permit does not constitute an approval of a development permit. A Building Permit (with Clearing & Grading review) shall be required and approved. Plans consistent with those submitted as part of this permit application shall be included in the Building Permit application.

Authority: Land Use Code 20.30P.140 Reviewer: David Wong, Land Use

2. **Mitigation Plan:** A final mitigation plan in accordance with the conceptual mitigation plan provided under this application shall be submitted for review and approval by the City of Bellevue prior to issuance of the Building Permit. The plan shall document the total area of new critical area buffer planting and the plans shall be consistent with the guidance provided in the City's Critical Areas Handbook.

Authority: Land Use Code 20.25H.105.C.3

Reviewer: David Wong, Land Use

3. Maintenance and Monitoring: A maintenance and monitoring plan in conformance with the plan submitted under this application shall be submitted for review and approval by the City of Bellevue prior to issuance of the Building Permit. The mitigation plan shall be maintained and monitored for a minimum of five (5) years. Annual reporting shall be submitted at the end of each growing season or by December 1 for each of the five years this plan is applicable. All reporting shall be submitted by email to dwong@bellevuewa.gov. or by mail to:

Environmental Planning Manager Development Services Department City of Bellevue PO Box 90012 Bellevue, WA 98009-9012

Authority: Land Use Code 20.25H.220.D, 20.25H.220.H

Reviewer: David Wong, Land Use

4. Maintenance and Monitoring Assurance Device: A financial surety is required to be submitted to ensure the mitigation planting successfully establishes. A maintenance assurance device that is equal to 20% of the cost of plants, installation, and the cost of

monitoring is required to be held for a period of five (5) years from the date of building permit issuance. A cost estimate is required to be provided with the building permit. The financial surety is required to be posted prior to building permit issuance. Release of the surety after the 5-year monitoring period is contingent upon a final inspection of the planting by Land Use Staff that finds the maintenance and monitoring plan was successful and the mitigation meets performance standards.

Authority: Land Use Code 20.25H.220.F

Reviewer: David Wong, Land Use

5. Geotechnical Analysis: Review and written geotechnical memo shall be provided to the City by the project geotechnical engineer prior to Building Permit approval. The written memo shall verify the design is consistent with the recommendations made in the report dated February 28, 2020.

Authority: Land Use Code 20.25H.125; Clearing & Grading Code 23.76.050 Reviewers: David Wong, Land Use; Savina Uzunow, Clearing & Grading

6. Geotechnical Inspection: The project geotechnical engineer must provide geotechnical inspection during project construction, including retaining walls, subgrades for foundations and footings, and any unusual seepage, slope, or subgrade conditions.

Authority: Clearing & Grading Code 23.76.050; 23.76.160

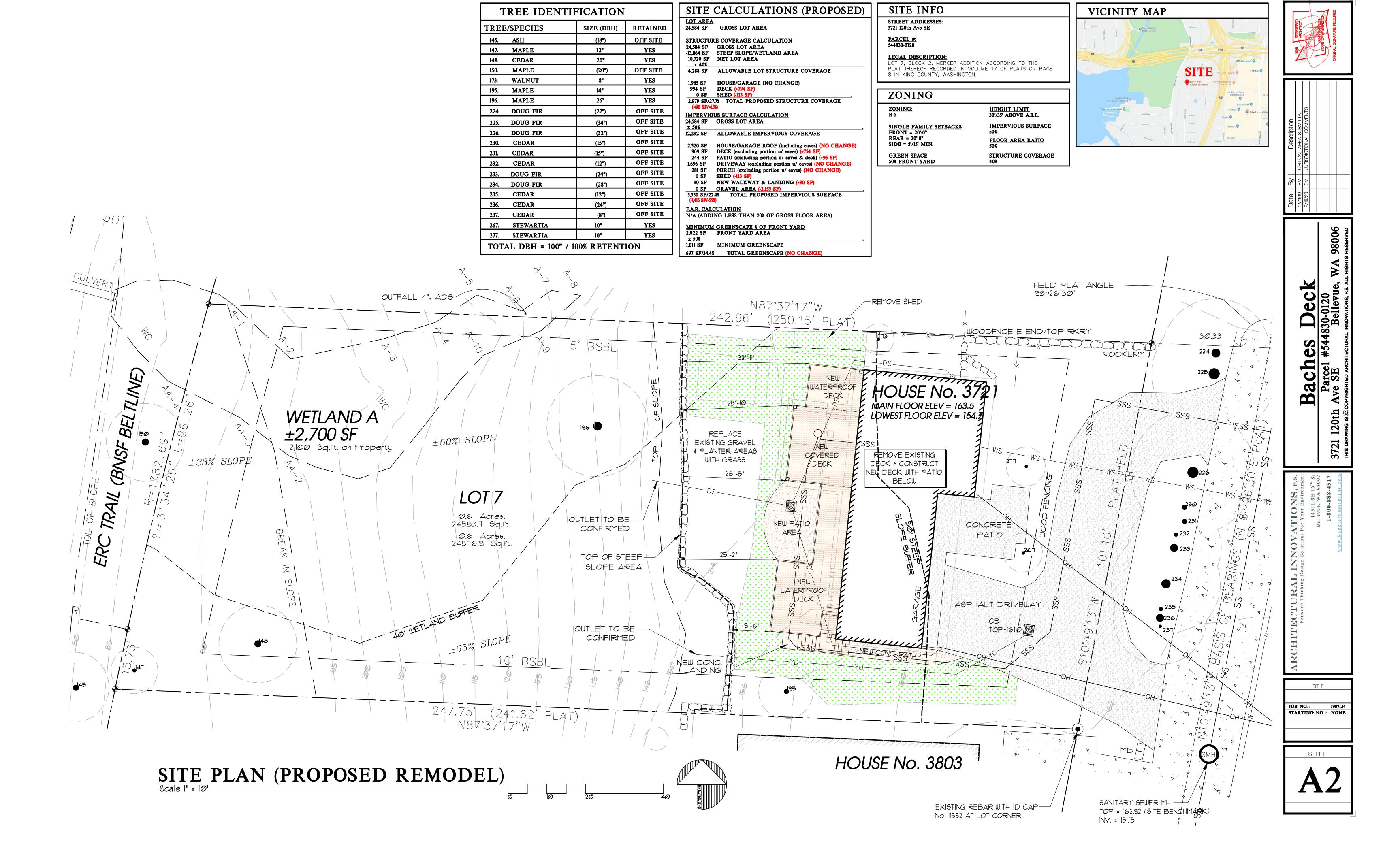
Reviewer: Savina Uzunow, Clearing & Grading

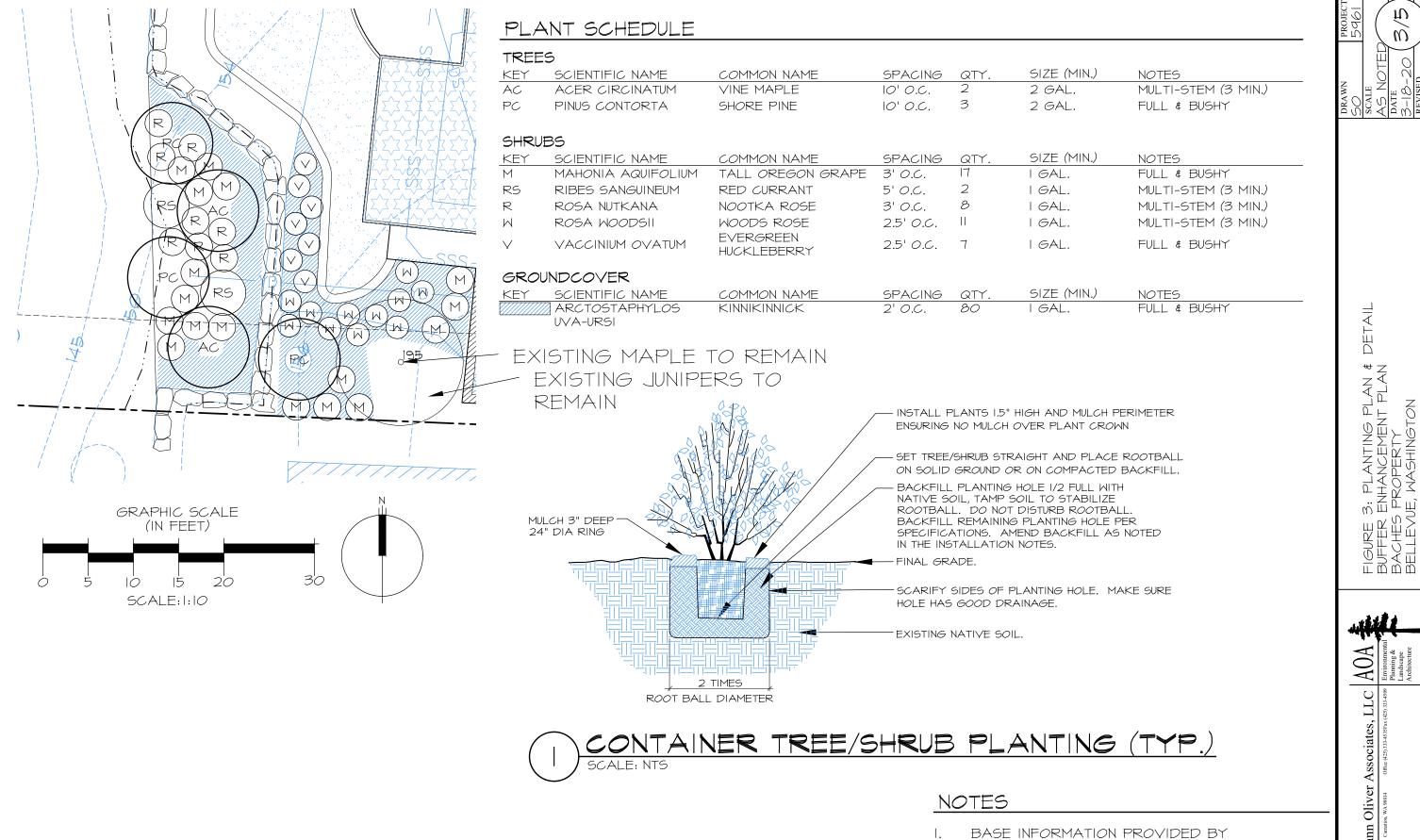
7. Hold Harmless Agreement: Prior to building permit approval, the applicant or property owner shall submit a hold harmless agreement releasing the City of Bellevue from any and all liability associated with the steep slope buffer modification. The agreement must meet city requirements and must be reviewed by the City Attorney's Office for formal approval.

Authority: Land Use Code 20.30P.170 Reviewer: David Wong, Land Use

8. Rainy Season restrictions: Due to the proximity to a steep slope, no clearing and grading activity may occur during the rainy season, which is defined as October 1 through April 30 without written authorization of the Development Services Department. Should approval be granted for work during the rainy season, increased erosion and sedimentation measures, representing the best available technology must be implemented prior to beginning or resuming site work.

Authority: Bellevue City Code 23.76.093.A, Reviewer: Savina Uzunow, Clearing & Grading





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ARCHITECTURAL INNOVATIONS, P.S., 14311 SE 16TH ST., BELLEVUE, WA 98007, (425) 641-5320. Ш \Box

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